

AMENDED PROPOSED REGULATORY TEXT

Proposed additions are indicated by underline and deletions are indicated by ~~strikethrough~~.

~~BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS CURRENTNESS
TITLE 15. CRIME PREVENTION AND CORRECTIONS
DIVISION 2. BOARD OF PRISON TERMS
CHAPTER 6. PAROLE REVOCATION
ARTICLE 9 PAROLE REVOCATION EXTENSION PROCEDURES~~

15 CCR § 2742 to read as follows:

~~§ 2742. Parole Violation Extension Procedures.~~

~~(a) General. Notwithstanding the provisions of Section 2740, the board may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation.~~

~~(b) Reportable In-Custody Misconduct. Upon discovery of a parolee's misconduct, the institution or county jail/holding facility staff will determine whether or not the conduct is reportable to the Board of Prison Terms as conduct for which revocation custody time may be extended under Penal Code Section 3057(c).~~

~~(c) Reporting. CDC/county jail staff shall present the parolee's misconduct to the Board of Prison Terms. Reports of misconduct shall be forwarded whether or not the underlying conduct has been adjudicated by CDC.~~

~~Institutional staff shall prepare and present their cases to any available deputy commissioner or commissioner for screening and disposition of the case at the institution where the parole violator is housed.~~

~~County jail cases will be forwarded to the regional headquarters, P&CSD, where they will be presented to a deputy commissioner or commissioner for screening and disposition.~~

~~(d) Extension Pending Hearing. In any misconduct case in which the parolee is within 45 days of his/her re-release date, and where there is no deputy commissioner or commissioner personally available, staff shall report the misconduct by telecopier to the board central office calendar for immediate action requesting that the parolee's re-release date be extended for a period not to exceed 30 days for misconduct punishable as a serious disciplinary offense or for a period not to exceed 45 days for misconduct punishable as a misdemeanor or felony. The signature of one commissioner or deputy~~

commissioner shall be required to order the extension pending revocation extension proceedings.

~~(e) Urgent Extension Pending Hearing. In those instances wherein the act of misconduct takes place immediately prior to release or during such time as the Board of Prison Terms is closed (holidays, weekends, evenings, etc.), and the release of the parolee/inmate would otherwise take place without an action by the board, staff may contact authorized BPT employees by phone and these persons may order that the parolee's release be extended without written order. Any telephonic extension so ordered shall be confirmed by the person ordering it in writing on the next working day.~~

~~(f) Screening. Screening (offering and accepting stipulated dispositions) shall be conducted by one deputy commissioner or commissioner and an extension period offered commensurate with the degree of seriousness of the misconduct. If the parolee accepts the revocation extension offer, he/she shall sign an unconditional waiver, under the provisions of section 2641(a). In cases where there is insufficient information to support a good cause finding but the reviewer believes that upon presentation of additional evidence a good cause finding could be made, the matter will be scheduled for a revocation extension hearing and the commissioner or deputy commissioner shall notify P&CSD that additional evidence must be obtained and provided for the revocation extension hearing.~~

~~(g) Optional Waivers. A parolee may sign an optional waiver under section 2641(b) in cases where criminal charges are pending relating to the same conduct. Upon disposition of the criminal charges, the parolee may request a hearing or sign an unconditional waiver.~~

~~(h) Scheduling. All cases requiring an extension hearing shall be scheduled promptly in order to maintain the availability of witnesses. When the revocation release date has been extended pending a hearing, the hearing shall be conducted prior to the extended revocation release date or the misconduct charges will be dismissed.~~

~~(i) Rights. Parolees pending a revocation extension hearing will be afforded the same rights as parolees pending revocation hearings.~~

~~(j) Transfer Pending Hearing. Parolees scheduled for revocation extension hearings shall not be transferred from the institution prior to the hearing.~~

~~(k) Disposition.~~

~~(1) Multiple Misconduct Charges. Multiple misconduct charges shall be assessed consecutive to each other, and shall not exceed 12 months for all misconduct during one parole revocation period.~~

~~(2) Disciplinary Rule Violation Schedule. When a hearing panel makes a good cause finding that a prisoner has committed an act of misconduct which is subject to~~

~~punishment pursuant to Penal Code Section 3057, the hearing panel may assess additional time to the prisoner's parole revocation period in accordance with the following schedule:~~

~~(A) Felonies. Upon a finding of good cause that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct punishable as a felony, whether or not prosecution is undertaken, the board may assess from 0-180 days of additional revocation time.~~

~~Acts of misconduct which are punishable as felonies include the following:~~

- ~~1. Murder, manslaughter or attempted murder.~~
- ~~2. Aggravated assault by prisoner.~~
- ~~3. Possession or manufacture of any firearm, deadly weapon, or explosive device (includes any sharp instrument).~~
- ~~4. Battery on non-prisoner by prisoner.~~
- ~~5. Assault with a deadly weapon or caustic substance.~~
- ~~6. Rape, Sodomy or oral copulation accomplished against victim with force.~~
- ~~7. Arson involving the burning of a structure.~~
- ~~8. Possession of flammable explosive or combustible material with intent to burn any structure or property.~~
- ~~9. Solicitation of murder, assault with a deadly weapon by means of force likely to produce bodily injury, arson, or a forcible sex act.~~
- ~~10. Taking of a hostage.~~
- ~~11. Escape or attempted escape, with force.~~
- ~~12. Escape from any prison, institution, camp or re-entry facility.~~
- ~~13. Escape or attempted escape without force from a prison, institution, camp or re-entry facility.~~
- ~~14. Willful and intentional destruction of public property valued in excess of \$400 in a state prison or county jail.~~
- ~~15. Conspiracy to commit any felony or misdemeanor offense.~~

- ~~16. Assault or battery on a peace officer, not involving the use of a weapon.~~
- ~~17. Furnishing equipment or aiding and abetting an escape or escape attempt.~~
- ~~18. Extortion.~~
- ~~19. Bribery.~~
- ~~20. Solicitation of extortion, bribery or forgery.~~
- ~~21. Arson of land or property of another not involving a structure.~~
- ~~22. Forgery, falsification or alteration of any official record or document prepared or maintained by the department which could affect a term of imprisonment.~~
- ~~23. Possession of any narcotic, drug or controlled substance in a re-entry facility.~~
- ~~24. Manufacture of alcohol.~~
- ~~25. Possession of any alcoholic beverage or intoxicating substance, in any prison, institution or camp including a re-entry facility.~~
- ~~26. Possession of any container, device, contrivance, instrument or paraphernalia intended for unlawfully injecting or consuming narcotics, drugs or alcoholic beverages.~~
- ~~27. Commission of any felony offense not otherwise mentioned in this schedule.~~

~~(B) Misdemeanors. Upon a finding of good cause to believe that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct punishable as a misdemeanor, whether or not prosecution is undertaken, the board may assess from 0-90 days of additional revocation time.~~

~~Acts of misconduct which are punishable as misdemeanors include the following:~~

- ~~1. Participating in a riot, rout or unlawful assembly.~~
- ~~2. Inciting a riot.~~
- ~~3. Indecent exposure.~~
- ~~4. Battery on a prisoner in which no serious bodily injury is inflicted and no weapon is used.~~
- ~~5. Theft or embezzlement involving funds or property with a value less than \$400.~~
- ~~6. Intentional destruction of state property valued at less than \$400.~~

~~7. Consensual participation in an act of sodomy or oral copulation.~~

~~8. Gambling in any prison, institution, camp or re-entry facility.~~

~~9. Commission of any misdemeanor offense not otherwise mentioned in this schedule.~~

~~(C) Serious Disciplinary Offenses. Upon a finding of good cause to believe that a prisoner, confined pursuant to a parole revocation, has committed an act of misconduct defined as a serious rule violation pursuant to Section 3315, the board may assess from 0-30 days of additional revocation time.~~

~~Serious disciplinary offenses include but are not limited to the following:~~

~~1. Any act committed by a prisoner is a serious disciplinary offense if the act or action of the prisoner is an act of force or violence against another person, a breach of or presents a threat to institution security, a serious disruption of institution operations, the introduction or use of dangerous contraband or controlled substances or an attempt to commit any such act coupled with a present ability to carry out the threat or attempt if not prevented from doing so.~~

~~2. Any act of misconduct which is reportable to the Board of Prison Terms.~~

~~3. Intentional destruction of state property valued at \$50 or more, or intentional damage to state property requiring more than \$50 to repair or replace.~~

~~4. Hideout or preparation to escape.~~

~~5. Possession of escape paraphernalia.~~

~~6. Possession of money in an amount of five dollars or more without proper authorization.~~

~~7. Acts of disobedience or disrespect which by reason of intensity or context create a potential for violence or mass disruptive behavior.~~

~~8. Willfully inciting or attempting to incite other persons to commit an unlawful act of force or violence.~~

~~9. Refusal or failure to perform work or participate in programs as ordered or assigned.~~

~~10. Participation in a strike or work stoppage.~~

~~11. Mail or visiting violations that create a threat to the safety of any individual or to institutional security, including the introduction of dangerous contraband or a controlled~~

~~substance, or the obtaining or attempt to obtain a family visit by falsification of information.~~

~~12. The throwing of any liquid or solid substance on a nonprisoner.~~

~~13. Unauthorized possession of official departmental records or documents which could affect any prisoner's sentence.~~

~~14. Refusal to submit to a test for controlled substances.~~

~~15. Late return or failure to return from authorized temporary release.~~

~~16. A pattern of administrative rule violations indicating significant maladjustment, which violations are of increasing seriousness or are of special significance in light of an existing release date.~~

~~17. Involvement in a conspiracy to do any or all of the above.~~

~~Note: Authority cited: Section 5076.2, Penal Code. Reference: Section 3057, Penal Code.~~